



Task Force on Trial Court Employees

Meeting Minutes

July 9 and 10, 1998

Renaissance Hotel LAX, Los Angeles, California

ATTENDEES:

Hon. James A. Ardaiz, Chair

TASK FORCE MEMBERS:

PRESENT:

Ms. Pamela Aguilar
Marshal Barbara J. Bare
Hon. Aviva K. Bobb
Mr. Gary Cramer
Hon. Charles D. Field
Ms. Karleen A. George
Ms. Diane Givens
Ms. Mary Louise Lee
Mr. Ronald G. Overholt
Ms. Christine E. Patton
Mr. Steve Perez
Mr. John Sansone
Mr. Larry Spikes
Mr. Robert Straight
Mr. Mike Vargas
Mr. Robert Walton

ABSENT:

Sheriff Charles Plummer

PRESENTERS:

Mr. Drew James, Consultant, William M. Mercer, Inc.
Ms. Janice Stanger, Consultant, William M. Mercer, Inc.
Ms. Lyn Vraa-Tarr, Consultant, William M. Mercer, Inc.

AOC STAFF:

Ms. Judy Myers, Director, Human Resources Bureau,
Administrative Office of the Courts
Ms. Deborah Brown, Attorney, Council and Legal Services
Division, Administrative Office of the Courts
Ms. Tina Burkhart, Court Services Analyst, Trial Court Services
Division, Administrative Office of the Courts
Ms. Sharon Smith, Director's Intern, Human Resources Bureau,
Administrative Office of the Courts
Ms. Hazel Ann Reimche, Human Resources Analyst, Human
Resources Bureau, Administrative Office of the Courts
Ms. Kay Galbraith, Human Resources Analyst, Human
Resources Bureau, Administrative Office of the Courts
Ms. Emma Adarlo, Secretary, Human Resources Bureau,
Administrative Office of the Courts

FACILITATOR:

Ms. Liz Schiff, Organizational Development Specialist,
Human Resources Bureau, Administrative Office
of the Courts

GUESTS:

Mr. Alex MacBain, Fiscal & Policy Analyst,
Legislative Analyst's Office
Mr. Peter Kutras, Jr., Deputy County Executive,
County of Santa Clara

July 9, 1998

I. OPENING REMARKS

- Justice James A. Ardaiz, chair, called the meeting to order at 10:10 a.m. He welcomed everyone to the second task force meeting and discussed the meeting objectives.

II. INTRODUCTION OF NEW TASK FORCE AOC STAFF AND GUEST

- Ms. Judy Myers introduced Ms. Deborah Brown, Attorney, AOC Council and Legal Services; Ms. Tina Burkhart, Court Services Analyst, AOC Trial Court Services; and Mr. Peter Kutras, Jr., Deputy County Executive, County of Santa Clara. Deborah Brown is replacing Amy Brown as staff attorney to the task force, Tina Burkhart is replacing Kate Harrison as the Trial Court Services Division staff to the task force, and Peter Kutras, Jr. is representing the California State Association of Counties (CSAC).
- Ms. Liz Schiff reviewed the ground rules that were adopted at the first meeting and asked for additions and modifications to the ground rules. No modifications, additions, or any new suggestions were requested.
- Justice Ardaiz opened the floor for questions, corrections, and/or additions to the minutes from the June 3 and 4 meeting in San Jose. Mr. Gary Cramer suggested a correction to the minutes on page 4, item VII., second bullet, to add the word “Legislature” between the words “the” and “to” in the first line of the first sentence in paragraph 2. Mr. Ron Overholt moved that the minutes be approved as corrected, Ms. Karleen George seconded the motion, and the minutes were approved by unanimous vote.

III. COMMENTS ON THE BREAKOUT SESSION NOTES

- Justice Ardaiz directed the members’ attention to the notes from the breakout session at the June meeting. Mr. Cramer pointed out an inaccuracy in the information on page 5, item E(a), bullet #6 regarding the Fair Labor Standards Act (FLSA) status of court reporters. The members agreed to keep “FLSA” but delete the parenthetical statement “(court reporters are not subject to FLSA).” Likewise, it was suggested that other FLSA issues need to be looked at. There were no other comments noted regarding the breakout notes.

IV. PRESENTATION AND REVIEW OF SURVEY COMPONENTS AND METHODOLOGY

- Mr. Drew James delivered a presentation regarding the survey of court employees. Mr. James explained that the presentation would concentrate on the survey purpose, process, and content and that survey information will be gathered on these three key areas: (1) job classification, (2) pay and benefits costs, and (3) status. He stated that as a separate and distinct element of the survey the consultants will gather information on the collective bargaining agreements currently in place. He announced that the survey will be structured to have flexibility.
- Mr. James introduced Ms. Janice Stanger who discussed the survey process and Ms. Lyn Vraa-Tarr who discussed the survey content and other issues.
- Ms. Lyn Vraa-Tarr discussed classification issues relating to the survey.
- A handout of the Mercer presentation was distributed to the members and staff at the meeting.
- Justice Ardaiz used medical benefits as an example to explain that the task force must determine cost information. He stated that the survey format and design is open to suggestions and revisions.

- Justice Ardaiz opened the floor to discussion regarding the use of June 30, 1998 as the snapshot date for budget data. Ms. Pamela Aguilar moved to use the June 30 date. The members unanimously approved utilizing the June 30 date and using a supplemental questionnaire to gather additional data.
- Justice Ardaiz received agreement that: (1) members will mail their comments/input on the survey format to staff; (2) staff will incorporate comments and send to Mercer group; (3) the necessity of using position ID numbers and individual identifiers will be reviewed; and (4) the snapshot date of June 30 will be used for the survey.

V. GOVERNANCE AND OTHER OPERATING PROCEDURES

- Justice Ardaiz opened the floor to discussion regarding the “sunset model” and the concept of creating an executive committee. The members rejected the idea of creating an executive committee. Ms. Barbara Bare moved that the “sunset model” be approved. The motion was seconded by Mr. Ron Overholt, and approved by the task force members by unanimous vote. Justice Ardaiz reviewed the agreement to use the “sunset model” process as follows:
 1. Members are notified of proposed decisions or course of action;
 2. Members are asked to respond by a specific date;
 3. If no objections or counterproposals, action is taken;
 4. Minor changes are incorporated as appropriate; and
 5. Major objections are brought to the entire group.
- A copy of the “sunset model” slide presentation was distributed to the members and staff at the meeting.

VI. CONSENSUS MODEL

- Ms. Liz Schiff introduced the *Proposed Decision-Making Model*. Ms. Schiff enumerated the steps as follows:
 1. Call for closure to end discussion.
 2. Clarify/summarize proposal(s).
 3. Check for consensus by polling.
 4. If consensus, then group moves forward on that proposal.
 5. If no consensus, the chair or the facilitator can propose one of the following options:
 - a) Reopen the discussion for x time; revote if appropriate;
 - b) Require two-thirds vote instead of consensus; or
 - c) Reassign the issue for a future agenda.
- Justice Ardaiz opened the floor to discussion of the proposed model. Mr. Ron Overholt moved to delete step 5(b) and replace it with “simple majority instead of consensus.” Nine members voted to delete step 5(b) and replace it with a 51 percent vote, five opposed, and two abstained. A copy of the slide presentation of the *Proposed Decision-Making Model* was distributed to the members and staff at the meeting.

VII. ALTERNATIVE REPRESENTATION

- Justice Ardaiz opened the floor to discuss the issue of alternative representation. After discussion, the members voted that:
 1. No proxy votes by other task force members are allowed.
 2. Members who are absent may designate someone to attend the meeting in their place; however, the member must make sure that the designee knows the ground rules and agrees to abide by them.
 3. The designee may participate in the discussion to the extent that he or she represents the expertise of the member who is absent. The designee is not allowed to vote.

VIII. COMMUNICATION PLAN

A. INTERNAL COMMUNICATION

- The proposal to primarily use electronic mail as an internal tool of communication was unanimously approved. Additionally, phone, fax, and mail will be used.
- Ms. Judy Myers told the members that AOC's Information Systems Bureau will assist in fixing formatting problems if any. Utilizing the "confirm receipt" feature was also suggested when using electronic mail.

B. EXTERNAL COMMUNICATION

1. Web Site

- Ms. Judy Myers proposed the use of a Web site as an external communication tool. She announced that the Web site would be attached to the court information Web site maintained by the Judicial Council and that:
 - a) The Web site address would be *www.courtinfo.ca.gov/tcemployees*;
 - b) An e-mail address would be set up on this Web site for public comments and questions;
 - c) The launch of this Web site may be announced in a flyer that would go to the court administrators to get information out to trial court employees; and
 - d) A press release would be issued about this Web site.
- Ms. Myers explained that it is not feasible to respond to individual questions from the public, but that a frequently asked questions section would be used to respond to issues raised.
- Ms. Myers announced that the task force staff would be responsible for maintaining the Web site and that substantive content changes would be offered for member review.
- Justice Ardaiz opened the floor to discussion of the Web site concept. The concept was approved by all the members, however, posting of the member's pictures to the Web site was disapproved.

2. Public Comment Periods

- Justice Ardaiz opened the floor to discussion of the issue of public comment periods. After discussion, the following proposal was approved by the members:
 - a) Public comments will be scheduled for the first half hour of the meeting and will be advertised.
 - b) Other times are available by request of the chair.
 - c) There will be flexibility as much as possible as to time as long as this does not interfere with the work of the task force.

- d) Three minutes per speaker will be allowed.
- Justice Ardaiz informed the members that issues that had been decided by the task force should not be addressed in the public comment periods except when there are extenuating circumstances.
- Issues to be researched further:
 1. Holding task force meetings at court sites or areas closer to court sites;
 2. Providing a one- to two-page bimonthly newsletter; and
 3. Including trial court employee advisory vote as agenda item at a future meeting.
- Justice Ardaiz stated that he and staff are open to meet with small groups in different sites upon request. Justice Ardaiz stated that he had been contacted by groups requesting him as a speaker. He said that if any constituencies request speakers, they should contact him and he will arrange a time when he and staff could attend.

IX. WORKING DEFINITION OF COURT EMPLOYEES

- Ms. Judy Myers introduced Ms. Deborah Brown, AOC/CALS attorney. Ms. Brown delivered a presentation about existing common law and legal definitions of trial court employees. Ms. Brown stated that the Trial Court Funding Act establishes the Task Force on Trial Court Employees and reminded the task force of its duties. She explored the guidance available to task force as to the meaning of “trial court employees” as follows:
 1. Legislative history;
 2. Reasonable and common-sense interpretation; and
 3. Other laws relating to same subject.
- Ms. Deborah Brown talked about common law test, economic realities test, IRS analysis, IRS 20 factors test, and case law regarding employees. A copy of Ms. Brown’s slide presentation was distributed to the members and staff at the meeting.

X. CLOSING REMARKS

- The meeting was adjourned at 5:15 p.m.

July 10, 1998

I. OPENING REMARKS

- Justice Ardaiz welcomed everyone and called the meeting to order at 8:20 a.m. He reviewed the events of the previous day and presented the objectives of the day’s meeting.

II. INTRODUCTION OF PROPOSED MODEL AND CRITERIA

- Ms. Judy Myers presented the following proposed model and criteria for use during the breakout session to determine who are court employees for purposes of the survey:
 1. Is the position budgeted in the court’s budget?
 - If no, the incumbent in the position is not a court employee but is performing a service for the court.
 - If yes, the incumbent might be a court employee.

2. Does the court have fire/hire authority and control over the work of the incumbent in the position?
 - If no, the incumbent in the position is not a court employee but is performing a service for the court.
 - If yes, the incumbent is a court employee.
- Ms. Judy Myers stated that the above model represents the staff's best thinking on a definition of a court employee and reminded the members that it is only a point of departure for discussion.

III. BREAKOUT SESSION: BEGIN TO DEFINE TRIAL COURT EMPLOYEES/DISCUSSION

- Ms. Judy Myers announced that Ms. Liz Schiff would be leading the members through a breakout session which will allow them to consider whether the model works and whether they agree with it.
- The objective of the breakout session was to reach a consensus on a working definition of a court employee and on what criteria should be applied in determining who is a court employee for purposes of the survey. This may require revision after the results of the survey have been received. Ms. Myers stated that any definition that may be agreed to at this meeting will be tentative and will be reconsidered at the next meeting.
- The breakout groups discussed the definition of "court employee."

IV. THE BREAKOUT SESSION REPORT BACK (THREE GROUPS)

- A representative from each group presented a summary of their group's discussion.

V. CLOSING REMARKS

- Justice Ardaiz thanked everyone for their participation. He stated that the task force should keep an open mind regarding the vision of the future and that they are not constricted by what is currently in existence.
- Ms. Judy Myers reminded the task force of future meeting dates, which are:
 - * August 19 and 20; and
 - * September 24, 25, and 26.
- The meeting was adjourned at 3:10 p.m.